

## Article - Courts and Judicial Proceedings

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§3–819.

(a) (1) Unless a CINA petition under this subtitle is dismissed, the court shall hold a separate disposition hearing after an adjudicatory hearing to determine whether the child is a CINA.

(2) The disposition hearing shall be held on the same day as the adjudicatory hearing unless on its own motion or motion of a party, the court finds that there is good cause to delay the disposition hearing to a later day.

(3) If the court delays a disposition hearing, it shall be held no later than 30 days after the conclusion of the adjudicatory hearing unless good cause is shown.

(b) (1) In making a disposition on a CINA petition under this subtitle, the court shall:

(i) Find that the child is not in need of assistance and, except as provided in subsection (e) of this section, dismiss the case;

(ii) Hold in abeyance a finding on whether a child with a developmental disability or a mental illness is a child in need of assistance and:

1. Order the local department to assess or reassess the family's and child's eligibility for placement of the child in accordance with a voluntary placement agreement under § 5–525(b)(1)(i) of the Family Law Article;

2. Order the local department to report back to the court in writing within 30 days unless the court extends the time period for good cause shown;

3. If the local department does not find the child eligible for placement in accordance with a voluntary placement agreement, hold a hearing to determine whether the family and child are eligible for placement of the child in accordance with a voluntary placement agreement; and

4. After the hearing:

A. Find that the child is not in need of assistance and order the local department to offer to place the child in accordance with a voluntary placement agreement under § 5–525(b)(1)(i) of the Family Law Article;

B. Find that the child is in need of assistance; or

C. Dismiss the case; or

(iii) Subject to paragraph (2) of this subsection, find that the child is in need of assistance and:

1. Not change the child’s custody status; or

2. Commit the child on terms the court considers appropriate to the custody of:

A. A parent;

B. Subject to § 3–819.2 of this subtitle, a relative, or other individual; or

C. A local department, the Maryland Department of Health, or both, including designation of the type of facility where the child is to be placed.

(2) (i) 1. In this paragraph, “disability” means:

A. A physical or mental impairment that substantially limits one or more of an individual’s major life activities;

B. A record of having a physical or mental impairment that substantially limits one or more of an individual’s major life activities; or

C. Being regarded as having a physical or mental impairment that substantially limits one or more of an individual’s major life activities.

2. “Disability” shall be construed in accordance with the ADA Amendments Act of 2008, P.L. 110–325.

(ii) In making a disposition on a CINA petition under this subtitle, a disability of the child’s parent, guardian, or custodian is relevant only to the extent that the court finds, based on evidence in the record, that the disability

affects the ability of the parent, guardian, or custodian to give proper care and attention to the child and the child's needs.

(3) Unless good cause is shown, a court shall give priority to the child's relatives over nonrelatives when committing the child to the custody of an individual other than a parent.

(b-1) (1) If the court finds that a child enrolled in a public elementary or secondary school is in need of assistance and commits the child to the custody of a local department, the court may notify the county superintendent, the supervisor of pupil personnel, or any other official designated by the county superintendent of the fact that the child has been found to be in need of assistance and has been committed to the custody of a local department.

(2) If the court rescinds the commitment order for a child enrolled in a public elementary or secondary school, the court may notify the county superintendent, the supervisor of pupil personnel, or any other official designated by the county superintendent of the fact that the child is no longer committed to the custody of a local department of social services.

(3) The notice authorized under paragraphs (1) and (2) of this subsection may not include any order or pleading related to the child in need of assistance case.

(c) In addition to any action under subsection (b)(1)(iii) of this section, the court may:

(1) (i) Place a child under the protective supervision of the local department on terms the court considers appropriate;

(ii) Grant limited guardianship to the department or an individual or both for specific purposes including medical and educational purposes or for other appropriate services if a parent is unavailable, unwilling, or unable to consent to services that are in the best interest of the child; or

(iii) Order the child and the child's parent, guardian, or custodian to participate in rehabilitative services that are in the best interest of the child and family;

(2) Determine custody, visitation, support, or paternity of a child in accordance with § 3-803(b) of this subtitle; and

(3) For a child with a developmental disability, direct the provision of services to obtain ongoing care, if any, needed after the court's jurisdiction ends.

(d) If guardianship of a child is awarded to the local department under this subtitle, the local department shall notify the parents of the child and their attorneys as soon as practicable of any emergency decision made by the guardian with respect to the child under § 3–801(o) of this subtitle.

(e) If the allegations in the petition are sustained against only one parent of a child, and there is another parent available who is able and willing to care for the child, the court may not find that the child is a child in need of assistance, but, before dismissing the case, the court may award custody to the other parent.

(f) If the disposition removes a child from the child's home, the order shall:

(1) Set forth specific findings of fact as to the circumstances that caused the need for the removal; and

(2) Inform the parents, custodian, or guardian, if any, that the person or agency to which the child is committed may change the permanency plan of reunification to another permanency plan, which may include the filing of a petition for termination of parental rights if the parents:

(i) Have not made significant progress to remedy the circumstances that caused the need for the removal as specified in the court order; and

(ii) Are unwilling or unable to give the child proper care and attention within a reasonable period of time.

(g) (1) A guardian appointed under this section has no control over the property of the child unless the court expressly grants that authority.

(2) (i) If a guardian appointed under this section is a local department, the court shall, on request of the local department, issue a separate order granting the local department guardianship authority to establish:

1. An individual savings account;
2. If the local department is unable to establish an individual savings account due to the child's age, an ABLE account in accordance with the provisions of Title 18, Subtitle 19C of the Education Article; or
3. A pooled special needs trust under § 14.5–1002 of the Estates and Trusts Article.

(ii) An order authorizing a local department to establish an account or a trust as the guardian of a child under subparagraph (i) of this paragraph shall:

1. Require that funds deposited to establish an ABLE account under subparagraph (i)2 of this paragraph be in an FDIC-insured portfolio option that most minimizes the risk of capital loss;

2. Prohibit the local department from withdrawing funds from any account or trust established under the order; and

3. Require the local department to provide prompt notice to a financial institution, including contact information for the child or subsequent guardian of the child, of the termination of the guardianship under this subtitle or Title 5, Subtitle 3 of the Family Law Article.

(h) The court may not commit a child for inpatient care and treatment in a psychiatric facility unless the court finds on the record based on clear and convincing evidence that:

(1) The child has a mental disorder;

(2) The child needs inpatient medical care or treatment for the protection of the child or others;

(3) The child is unable or unwilling to be voluntarily admitted to such facility; and

(4) There is no less restrictive form of intervention available that is consistent with the child's condition and welfare.

(i) The court may not commit a child for inpatient care and treatment in a facility for the developmentally disabled unless the court finds on the record based on clear and convincing evidence that:

(1) The child is developmentally disabled;

(2) The condition is of such a nature that for the adequate care or protection of the child or others, the child needs in-residence care or treatment; and

(3) There is no less restrictive form of care and treatment available that is consistent with the child's welfare and safety.

(j) (1) (i) Each commitment order issued under subsection (h) or (i) of this section shall require the custodian to file progress reports with the court at intervals no greater than every 6 months during the life of the order.

(ii) The custodian shall provide each party or attorney of record with a copy of each report, which shall be considered at the next scheduled hearing.

(iii) After the first 6 months of the commitment and at 6-month intervals thereafter, on the request of any party, the custodian, or the facility, the court shall hold a hearing to determine whether the standards specified in subsection (h) or (i) of this section continue to be met.

(2) (i) If an individualized treatment plan developed under § 10–706 of the Health – General Article recommends that a child no longer meets the standards specified in subsection (h) of this section, the court shall grant a hearing to review the commitment order.

(ii) The court may grant a hearing at any other time to determine whether the standards specified in subsection (h) of this section continue to be met.

(3) (i) If an individualized plan of habilitation developed under § 7–1006 of the Health – General Article recommends that a child no longer meets the standards specified in subsection (i) of this section, the court shall grant a hearing to review the commitment order.

(ii) The court may grant a hearing at any other time to determine whether the standards specified in subsection (i) of this section continue to be met.

(k) An order vesting legal custody of a child in a person or agency is effective for an indeterminate period of time, but is not effective after the child reaches the age of 21.

(l) After giving the parent a reasonable opportunity to be heard, and determining the income of the parent, the court may order either parent or both parents to pay a sum in the amount the court directs to cover wholly or partly the support of the child under this subtitle.

(m) An order directing the provision of services to a child under subsection (c)(3) of this section is effective until:

(1) The child is transitioned to adult guardianship care if adult guardianship is necessary and there is no less restrictive alternative that meets the needs of the child; and

(2) (i) The Maryland Department of Health enters into an agreement to provide or obtain the services ordered by the court; or

(ii) If the Maryland Department of Health challenges the necessity of the services ordered by the court, the conclusion of any administrative or judicial review proceeding regarding the challenge.

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